

or the Coast Guard Academy, or a midshipman at the United States Naval Academy, is entitled to the allowances provided by law for a midshipman in the Navy, and to travel and transportation allowances prescribed under section 410 of this title while traveling under orders as a cadet or midshipman.

(b) Each midshipman of the Navy to whom a Navy ration is not furnished is entitled to the commuted value of the ration in money for each day that he is on active duty, including each day that he is on leave. The Secretary of the Navy may prescribe regulations stating the conditions under which the commuted value shall be allowed and may prescribe regulations establishing the rates at which the ration shall be commuted.

(c) A cadet or midshipman appointed under section 2107 of title 10 is entitled to the same allowances as are provided for cadets and midshipmen at the United States Military, Naval, and Air Force Academies for—

- (1) initial travel to the educational institution in which matriculated;
- (2) travel while under orders; and
- (3) travel on discharge.

However, no allowance for travel on discharge may be paid to a discharged cadet or midshipman who continues his scholastic instruction at the same educational institution.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 479; Pub. L. 88-647, title II, §202(4), Oct. 13, 1964, 78 Stat. 1070; Pub. L. 89-718, §63, Nov. 2, 1966, 80 Stat. 1123.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
422(a)	37:308 (less applicability to pay).	Oct. 12, 1949, ch. 681, §508 (less applicability to pay), 63 Stat. 828.
422(b)	10:6081(b) (9th through 17th words).	[None.]
	10:6081(c) (16th through 19th words).	[None.]
422(c)	10:6904(c).	[None.]
	10:6905(c).	[None.]
422(d)	10:6906(c) (1st sentence, less applicability to pay).	[None.]

In subsection (a), the words “prescribed under section 410 of this title” are inserted to reflect that revised section.

AMENDMENTS

1966—Subsec. (c). Pub. L. 89-718 struck out “, United States Code,” after “title 10”.

1964—Subsec. (c). Pub. L. 88-647, §202(4)(A), (B), among other changes, substituted provisions relating to a cadet or midshipman appointed under section 2107 of title 10, for provisions relating to a midshipman appointed under section 6904 of title 10, or a seaman recruit enlisted under section 6905 of title 10, and “educational institution” for “college or university”, in text, and “Cadets and midshipmen” for “Cadets, midshipmen, and naval officer candidates”, in section catchline.

Subsec. (d). Pub. L. 88-647, §202(4)(C), struck out subsec. (d) which entitled a midshipman under section 6906 of title 10, while on flight training or duty, to the allowances of a midshipman at the United States Naval Academy.

§ 423. Validity of allowance payments based on purported marriages

A payment of an allowance, based on a purported marriage, that is made under this chapter, under the Career Compensation Act of 1949, or under the Pay Readjustment Act of 1942, before judicial annulment or termination of that marriage, is valid, if a court of competent jurisdiction adjudges or decrees that the marriage was entered into in good faith on the part of the spouse who is a member of a uniformed service or if, in the absence of such a judgment or decree, such a finding of good faith is made by the Secretary concerned or by a person designated by him to investigate the matter.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 479.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
423	37:303.	Oct. 12, 1949, ch. 681, §503, 63 Stat. 827.

The words “or which hereafter may be” are omitted as surplusage. The words “a person designated by him to investigate the matter” are substituted for the words “such person as he may designate for the purpose”.

REFERENCES IN TEXT

The Career Compensation Act of 1949, referred to in text, is act Oct. 12, 1949, ch. 681, 63 Stat. 802, which was classified principally to chapter 4 (§231 et seq.) of former Title 37, Pay and Allowances, prior to the revision and reenactment of Title 37 by Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 451. For distribution of sections of chapter 4 of former Title 37, see Table preceding section 101 of this title.

The Pay Readjustment Act of 1942, referred to in text, is act June 16, 1942, ch. 413, 56 Stat. 359, which was classified principally to chapter 2 (§101 et seq.) of former Title 37, Pay and Allowances, prior to the revision and reenactment of title 37 by Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 451. For distribution of sections of chapter 2 of former title 37, see Table preceding section 101 of this title.

§ 424. Band leaders

(a) The leader of the Army Band is entitled to the allowances of a captain in the Army.

(b) The leader of the United State Navy Band is entitled to the allowances of a lieutenant of the Navy.

(c) A member of the Marine Corps who is appointed as director or assistant director of the United States Marine Corps Band under section 6222 of title 10, is entitled, while serving thereunder, only to the allowances of an officer in the grade in which he is serving. However, his allowances may not be less than those to which he was entitled at the time of his appointment under that section.

(d) The leader of the Naval Academy Band is entitled to the allowances of the pay grade prescribed for him by the Secretary of Navy under section 207(e) of this title. The second leader is entitled to the allowances of a warrant officer, W-1.

(e) The director of the Coast Guard Band is entitled to the allowances of an officer in the grade in which he is serving. However, his allow-

ances may not be less than those to which he was entitled at the time of his appointment as director.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 480; Pub. L. 89-189, §3, Sept. 17, 1965, 79 Stat. 820; Pub. L. 95-551, §3(b)(2), Oct. 30, 1978, 92 Stat. 2069.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
424(a)	10:3536(b) (less applicability to basic pay).	[None.]
424(b)	10:4338(a) (as applicable to allowances).	[None.]
424(c)	10:6221(b) (less applicability to basic pay).	[None.]
424(d)	10:6222(e) (less applicability to basic pay).	[None.]
424(e)	10:6969(b) (less last sentence, and less applicability to basic pay).	[None.]

AMENDMENTS

1978—Subsecs. (b) to (f). Pub. L. 95-551 redesignated subsecs. (c) to (f) as (b) to (e), respectively. Former subsec. (b), which provided that the director of music at the United States Military Academy be entitled to allowances of a commissioned officer of the rank prescribed for the director by the Secretary of the Army, was struck out.

1965—Subsec. (f). Pub. L. 89-189 added subsec. (f).

§ 425. United States Navy Band; United States Marine Corps Band: allowances while on concert tour

While on concert tours approved by the President, the members of the United States Navy Band and the United States Marine Corps Band do not forfeit allowances.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 480.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
425	10:6224.	[None.]

The words “do not forfeit” are substituted for the words “lose no” for clarity.

DELEGATION OF FUNCTIONS

Functions of President under this section delegated to Secretary of Defense, see section 1(14) of Ex. Ord. No. 11390, Jan. 22, 1968, 33 F.R. 841, set out as a note under section 301 of Title 3, The President.

[§ 426. Repealed. Pub. L. 90-377, § 10, July 5, 1968, 82 Stat. 288]

Section, Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 480, provided for payment to persons confined in a naval confinement facility under sentence of a court-martial of not more than \$3 a month for necessary expenses, such payments to be made from appropriations for pay of Navy or Marine Corps.

§ 427. Family separation allowance

(a) ENTITLEMENT TO ALLOWANCE.—(1) In addition to any allowance or per diem to which he otherwise may be entitled under this title a member of a uniformed service with dependents is entitled to a monthly allowance equal to \$100 if—

(A) the movement of his dependents to his permanent station or a place near that station

is not authorized at the expense of the United States under section 406 of this title and his dependents do not reside at or near that station;

(B) he is on duty on board a ship away from the home port of the ship for a continuous period of more than 30 days; or

(C) he is on temporary duty away from his permanent station for a continuous period of more than 30 days and his dependents do not reside at or near his temporary duty station.

(2) A member who becomes entitled to an allowance under this subsection by virtue of duty prescribed in subparagraph (B) or (C) of paragraph (1) for a continuous period of more than 30 days is entitled to the allowance effective as of the earlier of—

(A) the first day of that period; or

(B) the first day the member ceased being entitled to a previous allowance under this subsection by reason of the end of duty prescribed in such subparagraphs, if the member ceased being entitled to the previous allowance within 30 days before the first day of that period.

(b) ENTITLEMENT WHEN NO RESIDENCE OR HOUSEHOLD MAINTAINED FOR DEPENDENTS.—An allowance is payable under subsection (a) even though the member does not maintain for his primary dependents who would otherwise normally reside with him, a residence or household, subject to his management and control, which he is likely to share with them as a common household when his duty assignment permits.

(c) EFFECT OF ELECTION TO SERVE UNACCOMPANIED TOUR OF DUTY.—A member who elects to serve a tour of duty unaccompanied by his dependents at a permanent station to which the movement of his dependents is authorized at the expense of the United States under section 406 of this title is not entitled to an allowance under subsection (a)(1)(A). The Secretary concerned may waive the preceding sentence in situations in which it would be inequitable to deny the allowance to the member because of unusual family or operational circumstances.

(d) ENTITLEMENT WHILE SPOUSE ENTITLED TO BASIC PAY.—A member married to another member of the uniformed services becomes entitled, regardless of any other dependency status, to an allowance under subsection (a) by virtue of duty prescribed in subparagraph (A), (B), or (C) of paragraph (1) of such subsection if the members were residing together immediately before being separated by reasons of execution of military orders. Section 421 of this title does not apply to bar the entitlement to an allowance under this section. However, not more than one monthly allowance may be paid with respect to a married couple under this section.

(Added Pub. L. 88-132, §11(1), Oct. 2, 1963, 77 Stat. 217; amended Pub. L. 91-529, §1, Dec. 3, 1970, 84 Stat. 1389; Pub. L. 91-533, §1, Dec. 7, 1970, 84 Stat. 1392; Pub. L. 96-342, title VIII, §809(a), Sept. 8, 1980, 94 Stat. 1097; Pub. L. 99-145, title VI, §607(a), Nov. 8, 1985, 99 Stat. 639; Pub. L. 99-661, div. A, title VI, §618(a), Nov. 14, 1986, 100 Stat. 3880; Pub. L. 102-25, title VII, §702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 102-190, div. A, title